IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 15610 of 2006(G)

AGAINST THE ORDER DATED 30 /10 /2006 IN EP 1853/03 IN OS.3320/2001 of PRL.MUNSIFF COURT,THRISSUR

.....

PETITIONER:

P.K.BALAKRISHNAN, S/O.PUTTISSERY
P.K.KUTTAN, AGED 54 YEARS, PURANATTUKARA VILLAGE,
DO DESOM, THRISSUR DISTRICT.

BY ADV. SRI.B.PREMNATH (E)
SRI.SHAJI SEBASTIAN

RESPONDENTS:

SAFE FUARD CHITTIES AND LOANS PVT.LTD.,
T.M.C. XXIX/651, SHORNUR ROAD, THRISSUR VILLAGE,
DESOM, TALUK, REP. BY ITS CHAIRMAN, ADVOCATE
JACOB O.RAPHEL, NOW RESIDING AT TEMPLE AVENUE,
AYYANTHOLE VILLAGE, DESOM, THRISSUR TALUK.

BY ADV. SRI.N.M.MADHU
SMT.C.DEVIKA RANI KAIMAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)15610/06

APPENDIX

PETITINER'S EXHIBITS

EXT.P1: TRUE COPY OF OBJECTION OF PETITIONER IN E.P.1853/03 DATED 3.8.04.

EXT.P2: TRUE COPY OF AFFIDAVIT AND PETITION AS E.A.1288/05.

EXT.P3: TRUE COPY OF ORDER IN E.P.1853/03 IN O.S.3320/01.

EXT.P4: TRUE ROUGH COPY OF ORDER IN E.P.1853/03 IN OS.3320/01.

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.15610 OF 2006

DATED THIS THE 15th DAY OF DECEMBER, 2006

JUDGMENT

Petitioner is the second judgment debtor. Respondent is the decree holder. He is the surety. Respondent admittedly proceeded against the first judgment debtor by his arrest and detention. Respondent also sought arrest and detention of other judgment debtors,the sureties. Under Ext.P4 order, arrest and detention of petitioner and other surety was ordered. This petition is filed under Article 227 of Constitution of India challenging Ext.P4 order.

2. Learned Counsel appearing for petitioner submitted that petitioner is only a surety and he may be permitted to pay the balance decree debt in twelve equal monthly instalments.

3. Learned Counsel appearing for respondents opposed the prayer for granting twelve equal monthly instalments. Learned Counsel did not oppose the granting of instalment facility to the petitioner. Hence Ext.P4 order is quashed. Petitioner is permitted to pay the balance decree amount in twelve equal monthly instalments, the first instalment falling due on 16.1.07. If petitioner commits default in payment of two consecutive instalments, decree holder is

permitted to proceed against the judgment debtor by arrest.

M.SASIDHARAN NAMBIAR,JUDGE

Acd